

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>MARK SUFFIELD</b>	)	
Claimant	)	
VS.	)	
	)	
<b>THE BOEING COMPANY</b>	)	Docket No. 239,668
Respondent	)	
AND	)	
	)	
<b>AIG CLAIM SERVICES, INC.</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appealed the May 15, 2000 Award entered by Administrative Law Judge Jon L. Frobish. The Appeals Board heard oral argument in Wichita, Kansas, on October 13, 2000.

**APPEARANCES**

Joseph Seiwert of Wichita, Kansas, appeared for claimant. Kirby A. Vernon of Wichita, Kansas, appeared for respondent and its insurance adjusting service.

**RECORD AND STIPULATIONS**

The record considered by the Appeals Board and the parties' stipulations are listed in the Award.

**ISSUES**

Claimant alleges that he had an allergic reaction to chemicals, fumes, and dust while working for respondent from January 1998 and each workday after that date. In the May 15, 2000 Award, which is the subject of this appeal, Judge Frobish found that claimant had developed a temporary airway irritation only. The Judge then entered an Award denying compensation.

Claimant contends Judge Frobish erred. Claimant argues that his exposure to chemicals has left him with shortness of breath which is aggravated by being around such

things as household chemicals, solvents, and gasolines. Therefore, claimant argues that he has a 61 percent wage loss and a 51 percent task loss, which creates a 56 percent permanent partial general disability.

Conversely, respondent and its insurance adjusting company argue that claimant has failed to prove that he has been injured or otherwise affected by the exposure to chemicals at work. But if claimant proves that he has been injured by the alleged chemical exposure, they argue that claimant's permanent partial general disability is limited to his functional impairment as claimant refused an accommodated job that paid at least 90 percent of his pre-injury wage.

The only issues before the Appeals Board on this review are:

1. Did exposures to chemicals, fumes, or dust at work injure claimant?
2. If so, what is the nature and extent of claimant's injury and disability?

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. After reviewing the entire record and considering the parties' arguments, the Appeals Board finds that the Award should be modified to award claimant medical benefits for the temporary sinus and temporary nose irritation that claimant experienced as a result of working for respondent.
2. The Appeals Board agrees with, and adopts as its own, the findings and conclusions set forth in the Award.

The Board affirms the Judge's finding that claimant failed to prove that he sustained any permanent injury as the result of exposure to chemicals, fumes, or dust while working for respondent. That conclusion is based upon the testimony of cardiologist Roger Borchardt, M.D., and the testimony of pulmonary specialist Thomas Bloxham, M.D. The Board is mindful that P. Brent Koprivica, M.D., diagnosed claimant as having reactive airways disease. But that disease was specifically ruled out by tests ordered by Dr. Bloxham.

The Appeals Board finds that claimant's exposure to chemicals, fumes, and dust at work more probably than not caused a temporary sinus and temporary nose irritation. Therefore, claimant is entitled to medical treatment for those temporary conditions and unauthorized medical benefits as provided by the Workers Compensation Act. But claimant is not entitled to receive permanent partial disability benefits.

**AWARD**

**WHEREFORE**, the Appeals Board modifies the May 15, 2000 Award. Claimant is awarded the medical treatment that he incurred for treating the temporary conditions and unauthorized medical benefits up to the statutory maximum. Claimant is denied an award for permanent partial disability benefits.

The Appeals Board adopts the remaining orders set forth in the Award that are not inconsistent with the above.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November 2000.

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: Joseph Seiwert, Wichita, KS  
Kirby A. Vernon, Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director